Docket No. 042438.P064C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

JERRY IGGULDEN, ET AL.

Serial No.: 10/603,535

Filed: 06/25/2003

For: **CONTAINER AND TESTING DEVICE FOR SPORTS BALLS**

Art Unit: 2855

Examiner: Noori, Max H.

REQUEST FOR RECONSIDERATION

Mail Stop: Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the outstanding Office Action mailed January 5, 2004. Claims 1 and 2 have been rejected under 35 U.S.C. § 102(b) as being anticipated by either Kovacs et al. or Lowe. Applicant respectfully traverses this ground for rejection.

A rejection under 35 U.S.C. § 102(b) is proper only if the cited reference discloses each and every limitation of the rejected claim. Applicant submits that neither Kovacs nor Lowe satisfies this standard.

Claim 1 of the subject application requires a testing device that "includes an indicator to provide a visual indication of a force exerted in the axial direction by a partially compressed sport ball." Kovacs discloses a computer-controlled ball throwing machine. Kovacs discloses provision of a strain gauge to measure physical parameters of a ball so that the trajectory of the ball may be adjusted accordingly. Kovacs does not expressly disclose that the strain gauge

measures a force exerted in an axial direction by a partially compressed ball; however, even if this is the case, there is no indicator to provide a visual indication of such force.

Lowe discloses an apparatus for automatically teeing a golf ball. Applicant is unable to find any disclosure in Lowe concerning a test device that includes an indicator to provide a visual indication of a force exerted on the ball. Lowe discloses a threshold sensor for sensing pressure of the hydraulic fluid in the apparatus that then controls operation of a valve that regulates transport of the golf ball. This is nothing at all like the indicator recited in claim 1.

For the above-stated reasons, Applicant respectfully requests that the rejection under 35 U.S.C. § 102(b) be withdrawn.

Claims 1 and 2 have also been rejected under the doctrine of obviousness-type double patenting in view of the claims of U.S. Patent No. 6,612,182. Applicant hereby submits a Terminal Disclaimer to obviate this ground for rejection.

Based on all of the forgoing, Applicant believes that claims 1 and 2, the only claims pending in the application, are in condition for allowance and notice to such effect is respectfully requested at the earliest possible date.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: April 5, 2004

George W Hoover
Reg. No. 32,992

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to : Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: April 5, 2004

Kelly Walsh April 5, 2004
Kelly Walsh Date

Our Ref.: 042438.P064C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Jerry Iggulden, et al.

Serial No.: **10/603,535**

Filed: **06/25/2003**

For: **CONTAINER AND TESTING DEVICE FOR SPORTS BALLS**

Art Unit: **2855**

Examiner: **Noori, Max H.**

TERMINAL DISCLAIMER TO OBVIATE A
DOUBLE PATENTING REJECTION OVER A PRIOR PATENT

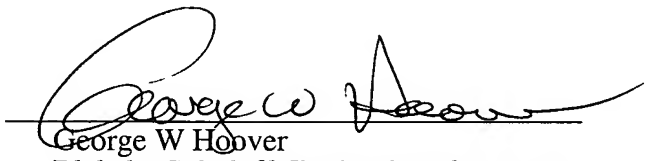
Mail Stop: Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Petitioner, Jerry Iggulden, is the owner of the entire interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,612,182. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patents granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a

reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: April 5, 2004 By: 

George W Hoover
Blakely, Sokoloff, Taylor & Zafman LLP
Reg. No. 32,992
Attorney for Jerry Iggulden

[X] Terminal disclaimer fee under 37 CFR 1.20(d) included.
[X] PTO suggested wording for terminal disclaimer was:

[X] unchanged; [ ] changed (if changed, an explanation should be supplied).

FEE TRANSMITTAL for FY 2004

Effective 10/01/2004. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT ($) 55.00

Complete if Known	
Application Number	10/603,535
Filing Date	June 25, 2003
First Named Inventor	Jerry Iggulden
Examiner Name	Max H. Noori
Art Unit	2855
Attorney Docket No.	42438P064C

METHOD OF PAYMENT *(check all that apply)*

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account

Deposit Account Number: 02-2666

Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP

The Commissioner is authorized to: *(check all that apply)*

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or underpayment of fees as required under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES

		Extra Claims		Fee from below		Fee Paid
Total Claims	2 − 20** =	0	x	9.00	=	$0.00
Independent Claims	1 − 3** =	0	x	43.00	=	$0.00
Multiple Dependent					=	

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple Dependent claim, if not paid
1204	86	2204	43	**Reissue independent claims over original patent
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0.00

***or number previously paid, if greater, For Reissues, see below*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920 *	1804	920 *	Requesting publication of SIR prior to Examiner action	
1805	1,840 *	1805	1,840 *	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	1,210	2255	605	Extension for reply within fifth month	
1404	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Prosessing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	1809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify)				Statutory Disclaimer	55.00

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 55.00

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	George W Hoover	Registration No. (Attorney/Agent)	32,992	Telephone	(310) 207-3800
Signature	George W Hoover			Date	04/05/04

Based on PTO/SB/17 (10-03) as modified by Blakely, Sokoloff, Taylor & Zafman (wlr) 02/10/2004.
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450